

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: D. W. Burns

Application No. 10/710,854

Filed: August 8, 2004

Confirmation No. 4853

For: STYLUS-BASED COMPUTER
INPUT SYSTEM

Examiner: Regina Liang

Art Unit: 2629

Attorney Docket No. DWB002

MAIL STOP AMENDMENT
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on 4/29/2009 (Date of Transmission).

Name: Debra B. Burns

Signature: /Debra B. Burns/

TELEPHONIC INTERVIEW SUMMARY BY APPLICANT

Dear Commissioner,

Enclosed are remarks regarding a telephonic interview with the Examiner on March 30, 2009, concerning an office action mailed March 24, 2009. The Applicant called the Inventor's Assistance Center the day after the interview to determine how remarks regarding an Applicant-Examiner impasse could be placed in the permanent record. It was suggested that a telephonic interview summary be filed summarizing the contents of the conversation.

CONTENT OF CONVERSATION AND FURTHER REMARKS

An Applicant-initiated telephone conversation was held with Examiner Regina Liang on March 30, 2009, concerning an office action received on the 27th of March (mailed March 24, 2009).

After reviewing the office action, the Applicant contacted the Examiner promptly to inquire why a prior pre-appeal brief decision of 02/09/2007 relied on in the previous office action response (response and RCE sent to the USPTO on 2/15/2009) was overlooked or ignored by the Examiner, a copy of which is appended to this document for convenience. No reference to the pre-appeal brief decision was found in the office action.

The Examiner responded that the remarks in the previous office action response were indeed considered, and that new art was found and it was decided to reject all claims even as amended in accordance with the pre-appeal brief decision.

The Applicant asked the Examiner why the panel decision was not honored.

The Examiner responded that she had shown the new art to her supervisor, Richard Hjerpe, and had his approval to reject the amended claims.

The Applicant was surprised by this answer, though failed to ask if the supervisor, who was one of the individuals on the panel along with Examiner Liang, was aware that this would overturn the three-member panel decision. The Applicant inquired about follow-up steps.

The Examiner responded that an office action response could be filed and would be considered.

The Applicant politely thanked the Examiner for her time and said he would consider how to respond.

The Applicant objects to the actions of the Office, which include: 1) not honoring the three-person panel decision (mailed 2/9/22007); 2) giving the impression that the objected-to claims would be allowed, stating once in the Notice of Non-Compliant Appeal Brief of May 30, 2007 and again in the Examiner's Answer of September 14,

2007 that the claims 14, 23 and 33 were not subject to appeal since they were not rejected; and 3) citing the most recent inappropriate art (Hiramatsu, U.S. 6,339,748) drawn to a rear-projection system that is improper in at least that it requires a diffuse rear-projection screen, is not telemetric, and does not compare images from two directions as claimed in Burns.

The Applicant would like to know on the record if the Supervisor was aware that his approval would overturn the prior three-member panel decision, which has been relied on in the appeal to the BPAI and in several RCEs (request for continuing examination) for co-pending applications. The suggested resolution is for another office action to be issued with the claims allowed as amended.

The Applicant, whose telephone number is listed below, welcomes phone contact from the Examiner or the Supervisor to discuss any concerns.

Respectfully submitted,

/David W. Burns/

David W. Burns
Inventor, Applicant and Agent
Registration No. 52,676

Date: April 29, 2009

15770 Rica Vista Way
San Jose, CA 95127
Telephone: (408) 729-6375



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,854	08/08/2004	David W. Burns	DWB002	4853

45827 7590 02/09/2007
DAVID W. BURNS
15770 RICA VISTA WAY
SAN JOSE, CA 95127

EXAMINER

LIANG, REGINA

ART UNIT	PAPER NUMBER
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2629

MAIL DATE	DELIVERY MODE
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02/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Application Number 	Application/Control No. 10/710,854 Regina Liang	Applicant(s)/Patent under Reexamination BURNS, DAVID W. Art Unit 2629
Document Code - AP.PRE.DEC		

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed January 22, 2007.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):
- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
 - ☐ The request does not include reasons why a review is appropriate.
 - ☐ A proposed amendment is included with the Pre-Appeal Brief request.
 - ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

- ☒ The panel has determined the status of the claim(s) is as follows:
- Claim(s) allowed: _____
- Claim(s) objected to: 14, 24, 33.
- Claim(s) rejected: 1-13, 15-23, 25-32, 34-40.
- Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Richard Hjerpe

(3) _____

(2) Regina Liang

(4) _____